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| 10/810,526 | 03/27/2004 | Julian James Orbach | 403104-A-01-US (Orbach) | 1176 |
| 47523 | 7590 | 06/16/2008 | EXAMINER | |
| JOHN C. MORAN, ATTORNEY, P.C. 4120 EAST 115 PLACE THORNTON, CO 80233-2623 | | | DOAN, KIET M | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/810,526

Applicant(s)

ORBACH, JULIAN JAMES

Examiner

KIET DOAN

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 April 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-22, 34-44, 56, 57 and 60 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-22, 34-44, 56, 57 and 60 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03/27/04 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 04/18/2008 has been entered.

Response to Arguments

2. Applicant's arguments filed 04/18/2008 have been fully considered but they are not persuasive.

In response to applicant's argument in claim12 that Coombes and Rutledge do not disclose or suggest "answering the incoming call by a wireless handset in response to a predefined amount of movement in a physical location of the wireless handset as detected by the wireless handset when the telecommunication terminal is not engaged in another call".

Examiner respectfully disagrees and maintains that Coombes teaches "answering the incoming call by a wireless handset in response to a predefined amount of movement in a physical location of the wireless handset as detected by the wireless handset when the telecommunication terminal is not engaged in another call" (Paragraph [0016] teach answering the in coming call when the users is speaking at a meeting and cannot simply stop to answer. That is, at a meeting is a physical location of

the wireless handset as detected by the wireless handset when the telecommunication terminal is not engaged in another call, this method is also teach in paragraph [0002], lines 8-13}).

Therefore, examiner interpreted ““answering the incoming call by a wireless handset in response to a predefined amount of movement in a physical location of the wireless handset as detected by the wireless handset when the telecommunication terminal is not engaged in another call” using broadest reasonable interpretation and Coombes reads on the limitation of claims 34, 56 and 60 as set forth in the rejection repeated below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

Claims 12-15, 34-37, 56 and 60 are rejected under 35 U.S.C. 102(e) as being anticipated by Coombes (Pub. No. 2004/0198461).

Consider **claims 12, 34, 56 and 60**. Coombes teaches a method for alerting a calling party of a delay before an incoming call will be answered by a user of a called wireless handset, comprising the steps of:

answering the incoming call by the wireless handset in response to a predefined amount of movement in a physical location of the wireless handset as detected by the

wireless handset when the telecommunication terminal is not engaged in another call (Paragraph [0016] teach answering the incoming call when the user is speaking at a meeting and cannot simply stop to answer. That is, at a meeting is a physical location of the wireless handset when the telecommunication terminal is not engaged in another call, also see paragraph [0002], lines 8-13);

muting an audio path of the answered call from communication with the user (Paragraph [0016], lines 4-5 teach put call on hold); and

transmitting a message that is selected by the user to the calling party. (Abstract, Paragraph [0011-0012] teach transmitting a pre-recording message to the caller that the user selects to be answered).

Consider **claims 13 and 35**. Coombes teaches the method of claim 12 further comprises the step of maintaining the incoming call from the calling party with the audio path muted to the user; and allowing audio communication by the user with calling party in response to another input from the user (Paragraph [0012], [0016] teach put incoming call on hold and selecting pre recording message that communicated with calling party by the user).

Consider **claims 14 and 36**. Coombes teaches the method of claim 12 further comprises the step of terminating the incoming call after transmission of the message (Paragraph [0015], Fig.3 shows step 314 teach end call when after transmit message).

Consider **claims 15 and 37**. Coombes teaches the method of claim 12 wherein the message is an audio message and the audio message is transmitted via the audio path to the calling party (Paragraph [0011-0012] teach audio message record and transmitted).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-18, 20, 22, 38-40, 42 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coombes (Pub. No. 2004/0198461) in view of Rutledge et al. (US 2002/0142756 A1).

Consider **claims 16, 20, 38 and 42**. Coombes teaches the claimed limitation as discussed in claim 15 **but is silent on** comprises the steps of receiving a time specifying the delay; and inserting the time into a predefined message.

In an analogous art, **Rutledge teaches** comprises the steps of receiving a time specifying the delay; and inserting the time into a predefined message (Paragraph [0012] teach the caller receiving specific time that inserting the time into a predefined message).

Therefore, it would have been obvious at the time that the invention was made to modify Coombes with Rutledge's system, such that the steps of receiving a time

specifying the delay; and inserting the time into a predefined message to provide means ensure the caller that the incoming call is received and welcome with the awareness of how long will be on hold.

Consider **claims 17, 39**. The combination of Coombes and Rutledge teach the method of claim 16. Further, Rutledge teaches wherein the step of inserting comprises converting the time to audio information for insertion into the predefined message (Paragraphs [0025]).

Consider **claims 18, 40**. The combination of Coombes and Rutledge teach the method of claim 17. Further, Coombes teaches comprises the step of recording the predefined message (Paragraph [0011] teach recording message).

Consider **claims 22, 44**. Coombes teaches the method of claim 20 further comprises the step of entering the predefined message (Paragraph [0011]).

6. Claims 19, 21, 41, 43 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Coombes (Pub. No. 2004/0198461) in view of Rutledge et al. (US 2002/0142756 A1) and further view of well know prior art (Official Notice).

Consider **claims 19, 21, 41, 43, 57**. The combination of Coombes and Rutledge teach the method of claim 12. However, Coombes and Rutledge are silent on wherein the message is a text message and transmit via text message link.

The examiner take Official notice that “the messages is a text message and transmit via text message link” is well known in the art that users of wireless handset can send message by text).

Therefore, it would have been obvious at the time that the invention was made to modify such that the messages is a text message and transmit via text message link to provide means for the convenient and allow the caller reading the reply text message.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KIET DOAN whose telephone number is (571)272-7863. The examiner can normally be reached on 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Appiah N. Charles can be reached on 571-272-7904. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kiet Doan/
Examiner, Art Unit 2617

/Charles N. Appiah/
Supervisory Patent Examiner, Art Unit 2617